

ALBANIAN COURT DECISION AND SENTENCE
REGARDING ARIF KURTI
(IN ALBANIAN as well as ENGLISH TRANSLATION)

REPUBLIKA E SHQIPËRISË
GJYKATA E RRETHIT GJYQËSOR ELBASAN

NR.I REGJISTRIT THEMELTAR 425(61400-01614-13)
NR. I VENDIMIT 425(13-2011-3871)

VENDIM
“PËR CAKTIM MASE SIGURIMI PERSONAL”

Gjykata e Rrethit Gjyqësor Elbasan, e përbërë nga:

GJYQTARE : ZAMIRA VYSHKA

Asistuar nga sekretarja Majsida Curra, sot më datë **13.08.2011**, mori në shqyrtim në seancë gjyqësore publike kërkesën e paraqitur nga:

KERKUES : Prokuroria pranë Gjykatës së Rrethit Gjyqësor Elbasan, e përfaqesuar nga Prokurori Alfred Shehu.

ME OBJEKT : Caktim mase sigurimi personal “arrest ne burg me afat 2 mujor”, ne baze te neneve 228,229,238 te K.Pr.Penale.

KUNDER : Personit nen hetim : **Arif Kurti** , i biri I Islamit dhe I Nuries , dtl 24.02.1970,lindur ne Bronz New York, banues ne Gjakove, me arsim tetejvecar, I padenuar me pare , I martuar me kombesi shqiptare e shtetesi Amerikane, aktualisht vuan denimin prane I.E.V.P .Peqin, mbrojtur ne gjykim nga avokati Bajram Stafa , anetar i Dhomes se Avokatise Elbasan me nr. License 2112 dhe nr. NIPTI K62804208 C.

I DYSHUAR: Per kryerjen e veprave penale te

1.“Aktivitetit te vazhdueshem kriminal”,ne kundershtim me titullin 21 te Seksionit 848 (pika “a” dhe “c”) te Kodit te Shteteve te Bashkuara;

2.“Konspiracion per import marijuane”,ne kundershtim me titullin 21 te Kodit te Shteteve te Bashkuara,Seksioni 952(a) dhe 960 (a)(1) dhe 963;

3.“Konspiracion per shperndarje marijuane”,ne kundershtim me titullin 21 te Kodit te Shteteve te Bashkuara,Seksioni 841(a)(I) dhe 846;

4.“Konspiracion per shperndarjes nderkombetare te marijuanes”,ne kundershtim me Titullin 21 te Seksionit 959(a) dhe 690(a)(3),963,959(c) dhe 960(b)(1)(G) te Kodit te Shteteve te Bashkuara;

5.“Konspiracion per shperndarje kokaine”,ne kundershtim me Titullin 21 te Seksionit 841(a)(I),846 dhe 841(b)(1)(A)(ii)(II) te Kodit te Shteteve te Bashkuara ;

6.“Konspiracion per eksportim kokaine”,ne kundershtim me Titullin 21 te Seksioneve 953(a) dhe 960(a)(I) dhe 963 dhe 960 (b)(I)(B)(ii) te Kodit te Shteteve te Bashkuara;

7.“Konspiracion per importim kokaine”,ne kundershtim me Titullin 21 te Seksioneve 952(a) dhe 960(a)(I) dhe Seksioneve 963 dhe 960(b)(I)(B)(ii) te Kodit te Shteteve te Bashkuara;

9.“Konspiracion per pastrim parash” ne kundershtim me Titullin 18 te Kodit te shteteve te Bashkuara,Seksioni 1956(a)(2)(B)(II);

10.“Perdorim i armeve te zjarrit gjate trafikimit te lendeve narkotike dhe ne lidhje me lendet narkotike”,ne kundershtim me Titullin 18 te Kodit te shteteve te Bashkuara Seksioni 924(c)(I)(A)(I).

Akuzat 1-7 dhe 10 ne legjislacionin penal te Shteteve te Bashkuara te Amerikes parashikojne nje denim maksimal me burgim te perjetshem.

Akuza 9 ne legjislacionin penal te Shteteve te Bashkuara te Amerikes parashikojne nje denim maksimal prej 20 vjetesh.

Gjykata, pasi dëgjoi prokurorin Alfred Shehu, i cili kerkoi caktimin e mases se sigurimit personal “arrest ne burg me afat 2 muaj”, per personin nen hetim Arif Kurti,vete personin nen hetim Arif Kurti dhe av.Bajram Stafa te cilet kerkuau nje mase sigurimi me te bute, pasi shqyrtoi aktet në tërësi,

VEREN

Rezulton se prane Gjykates se Rrethit Gjyqesor Elbasan, nga ana e Prokurorise se Rrethit Gjyqesor Elbasan, eshte paraqitur kerkese kunder shtetasit Arif Kurti me objekt “ caktim mase sigurimi personal “arrest ne burg me afat 2 mujor”, si i dyshuar per kryerjen e veprave penale te renditura si me siper,vepra keto te kryera prej tij ne Shtetet e Bashkuara te Amerikes. dhe ne bashkepunim.

“Pikerisht per shkak te ngritjes ndaj tij te ketyre akuzave, ai eshte shpallur ne kerkim nderkombetar,nga ana e autoriteteteve

amerikane te drejtesise ,konkretisht nga ana e Gjykates se Distriktit Lindor te New York-ut/SH.B.A ,kunder tij eshte nxjerre Flete arresti dt. 07 Korrik 2011 nepermjet urdherit te Gjyqtarit Lois Bloom te Gjykates se siperpermendur.

Shtetasi Arif Kurti aktualisht, ne baze te praktikes nr.3447 dt.10.08.2011 te Institucionit te Ekzekutimeve te Vendimeve Penale Peqin rezulton se eshte duke vuajtur nje denim prane ketij institucioni, denimin prej 5 vjetesh burgim te dhene me vendimin nr.52 dt.30.09.2008, te Gjykates se Shkalles se Pare Per Krime te Renda Tirane per vepren penale te "Prodhimit dhe shitjes se narkotikeve" te parashikuar nga neni 283/2 I K.Penal,si dhe eshte arrestuar qe me dt.09.09.2008.

Analizuar kerkesa e organit te prokurorise se rrrethit Elbasan,lidhur me caktimin e nje mase sigurimi personal arrest ne burg me afat 2 mujor" per shtetasin Arif Kurti,nga kendveshtrimi procedural rezulton se :

Drejte ka vepruar kjo prokurori qe kerkesen per caktimin e nje mase shtrenguese,e ka paraqitur perpara kesaj gjykate,si gjykate e vendqendrimit te personit nen hetim,qe eshte I.E.V.Peqin,ku ai aktualisht po vuan nje denim te dhene.

Ne kuptim te nenit 494/1 te K.Pr.Penale "Me kerkesen e shtetit te huaj, te paraqitur nga Ministria e Drejtesise,nepermjet prokurorit prane gjykates kopetente,gjykata mund te vendose perkohesisht nje mase shtrenguese,para se te vije kerkesa e ekstradimit" .

Nga materiali i ardhur nga ana e Ambasades se shteteve te bashkuara te Amerikes ne Tirane,rezulton se autoritetet kopetente amerikane kane marre nje mase per kufizimin e lirise personale ndaj Arif Kurtit(flete arresti i dt.07.07.2011),dhe njekohesisht jane shprehur se ato kane ndermend te paraqesin kerkesa per ekstradimin e tij.

Nen kete panorme,gjykata cmon se kerkimi i siperme gjen mbeshtetje ligjore ne nenin 494/2 te K.Pr.Penale "Masa mund te vendoset kur :

a - Shteti i huaj ka deklaruar se kunder personit eshte marre nje mase,per kufizimin e lirise personale,ose nje vendim denimi me burgim,dhe se ka ndermend te paraqese kerkesa per ekstradim"

Gjithashtu nga dokumentacioni i ardhur nga ana e ambasades Amerikane, rezulton se paraqiten te dhena te hollesishme per veprat penale te kryera nga Arif Kurti dhe elemente te mjaftueshem per identifikimin e ketij shtetasi,duke u plotesuar edhe

kerkesa e percaktuar **nga nenii 494 pika 2 germa "b" e Kodit te Procedures Penale.**

Gjithashtu shtetasit Arif Kurti I ka mbetur per te vuajtur nga denimi I dhene nga gjykata shqiptare dhe nje pjese e vogel e denimit dhe ekziston mundesia e ikjes per kete shtetas pas vuajtjes se denimit,duke u plotesuar dhe kerkesa e percaktuar nga nenii 494 pika 2 germa "c" e Kodit te Procedures Penale.

Per rastin konkret,gjykata cmon se ekzistojne te gjithe kushtet dhe kriteret e per gjithshme dhe te vecanta per caktimin e masave te sigurimit personal,te karakterit shtrengues,te parashikuara si te tilla ne nenet 228-229 te K.Pr.Penale, qe ndaj personit nen hetim,Arif Kurti te caktohet nje mase sigurimi,per te gjithe ato arsyet qe u renditen me lart.

Sa siper u provua ne seance gjyqsore me shpjegimet e pjesmarresve ne proces dhe provat shkresore te paraqitura.

PËR KËTO ARSYE

Gjykata bazuar në nenet 228, 229, 238,494/a/b/c të K.Pr.Penale,

V E N D O S I

- Pranimin e kerkeses se Prokurorise se Rrethit Gjyqesor Elbasan.
- Ti caktoje personit nen hetim Arif Kurti si mase sigurimi ate te arrestit ne burg me afat 2 muaj.
- Kunder vendimit lejohet ankim ne Gjykaten e Apelit Durres brenda 10 diteve.
- **U shpall , ne Elbasan sot me dt. 13/08/2011.**

GJYQTARE

ZAMIRA VYSHKA

Vendimi ka marre forme te prere me date 23.08.2011.

Me shkresen Nr. 425 date 06.09.2011 vendimi ju dergua organit te prokurorise se Rrethit Elbasan.

K/S E K R E T A R I
Shaban DEDJA

K A N C E L A R E
Merita DURO

[Translation from Albanian into English]

[Official emblem]

REPUBLIC OF ALBANIA

DISTRICT COURT OF ELBASAN

MAIN REGISTRY NR. 425(61400-01614-13)

DECISION NR: 425(13-2011-3871)

DECISION

“COURT DECISION AND SENTENCE”

The District Court of Elbasan presided by:

JUDGE ZAMIRA VYSHKA

Was assisted by secretary Majsida Curra, in a Public Trial today on 8/13/2011, and heard the motion presented by:

PETITIONER: The prosecution for the District Court of Elbasan represented by Prosecutor Alfred Shehu.

SUBJECT: Decision and Sentencing of “2 months imprisonment”, on the basis of Sections 228, 229, 238 of the Proc. Penal Code.

AGAINST: Person under investigation: **Arif Kurti**, the son of Islam and Nurie, D.O.B. 02/24/1970, born in Bronx, New York, resident of Gjakove, eight-grade education, no prior record, married, Albanian nationality and American citizenship, actually sentenced near I.E.V.P.

Peqin, was defended at Trial by attorney Bajram Stafa, member of Chamber of Attorneys in Elbasan, License nr. 2112 and nr. NIPTI K62804208 C.

SUSPECTED OF: Committing the following criminal acts:

1. "Continued criminal activities", in violation of Title 21 of Section 848 (point "a" and "c") of the United States Code;
2. "Conspiracy to import marijuana", in violation of Title 21 of the United States Code , Section 952(a) and 960(a)(1) and 963;
3. "Conspiracy to distribute marijuana", in violation of Title 21 of the United States Code, Section 841(a)(I) and 846;
4. "Conspiracy to internationally distribute marijuana", in violation of Title 21 of Sections 959(a) and 960(b)(1)(G) of the United States Code;
5. "Conspiracy to distribute cocaine", in violation of Title 21 of Section 841(a)(I), 846 and 841(b)(1)(A)(ii)(II) of the United States Code;
6. "Conspiracy to export cocaine", in violation of Title 21 of Sections 953(a) and 960(a)(I) and 963 and 960(b)(I)(B)(ii) of the United States Code.
7. "Conspiracy to import cocaine", in violation of Title 21 of Sections 952(a) and 960(a)(I) and Sections 963 and 960(b)(I)(B)(ii) of the United States Code.;
9. "Conspiracy to commit money-laundering" in violation of Title 18 of the United States Code, Section 1956(a)(2)(B)(II);
10. "Use of firearms while trafficking narcotics and in connection with Narcotics", in violation of Title 18 of the United States Code, Section 924(c)(I)(A)(I).

Charges 1-7 and 10 of the United States of America penal law carry a maximum sentence of life imprisonment.

Charge 9 of the United States of America penal law carries a maximum sentence of 20 years.

The Court, after hearing Prosecutor, Alfred Shehu who was seeking the Sentence of "2 months imprisonment" for the person under investigation, Arif Kurti; the person under investigation, Arif Kurti; and his attny, Bajram Stafa, who were seeking a lesser sentence; after investigating the acts in their entirety,

FINDS

Before the District Court of Elbasan, whereby the prosecution for the District Court of Elbasan, petitioned against citizen Arif Kurti for a decision and a sentence of "2 months imprisonment", for the suspect for committing the penal acts mentioned above; these acts were committed by him in the United States of America and as part of a conspiracy.

"Precisely because of these accusations brought against him, he was wanted internationally by American authorities of the Court, specifically from the Eastern District of New York Federal Court/U.S.A., with an arrest warrant for him issued on July 7, 2011 in a Court Order by Judge Lois Bloom in the abovementioned Court.

Citizen Arif Kurti, on the basis of practical law nr. 3447 dated 8/10/2011 from the Institution for Rendering Penal Decisions in

Peqin, is now serving a sentence in this institution, a 5-year-sentence rendered by decision nr. 52, dated 9/30/08, in the First Circuit Court for Serious Crimes in Tirana, for the penal act of "Producing and selling narcotics", cited in law 283/2 of the Penal Code, and has been arrested since 9/9/2008.

After analyzing the motion from the Prosecution of the District of Elbasan regarding the sentencing of "2-months imprisonment" for citizen Arif Kurti from a procedural viewpoint, the Court finds that:

The prosecution acted justly by requesting a binding sentence when presented before this court as the person under investigation resides in this jurisdiction, which is I.E.V.P Peqin, where he is presently serving his sentence.

Pursuant to section 494/1 of the Penal Proc. Code, "With the request of a foreign country made by the Ministry of Justice, through the Prosecution before a competent court, the court can decide temporarily on a binding measure, before the request for extradition is made".

The documents presented by the U.S. Embassy in Tirana show that U.S. authorities have ordered the arrest of Arif Kurti (arrest warrant dated 7/7/2011 and, at the same time, they have also stated they intend to seek his extradition.

As a result of the above, the Court finds that the above motion is legally supported by Section 494/2 of the Penal Proc. Code. "The sentencing measure can be decided when:

- a. The foreign country has stated that a measure has been taken to take away a person's freedom or a sentence of imprisonment has been imposed, and it intends to make a request for extradition."**

The documentation from the U.S. Embassy provides detailed information regarding the penal acts committed by Arif Kurti and there are sufficient elements for the identification of this citizen, wherefore fulfilling the provisions in Section 494 point 2 letter "b" of the Penal Proc. Code.

Additionally, citizen Arif Kurti remains to serve a small part of his sentence given by the Albanian Court and it is possible for this person to leave after serving his sentence under Section 494 point 2 letter "c" of the Penal Proc. Code.

The Court finds conditions and criteria exist, general or special, for imposing the binding sentence such as in Section 228-229 of the Penal Proc. Code against Arif Kurti, the person under investigation, and he should be sentenced for all the abovementioned reasons.

The above was proved in a Court Hearing based on the statements of the parties in the process and the evidence presented.

FOR THESE REASONS:

The Court, based on Sections 228,229,238, 494/a/b/c of the Penal Proc. Code,

HAS DECIDED

- To grant the motion of the Prosecution in the District Court of Elbasan.
 - To impose a sentence of 2 months imprisonment for the person under investigation, Arif Kurti.
 - The right to appeal can be made in the Appellate Court within 10 days.
- Entered in Elbasan today on 8/13/2011.**

JUDGE

ZAMIRA VYSHKA

[Signature]

The Decision was made final as of 8/23/2011.

Docket number 425 on 9/6/2011, decision was sent to the Prosecution in the District of Elbasan.

Head Secretary
Shahan DEDJA
[Signature]

Chancellor
Merita DURO
[Signature]